

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 58 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

JOHN HAMILTON CHRISTIAN

Versus

ASSOCIATED STONE INDUSTRIES

Appearance:

MR PRASHANT G DESAI for Petitioner

MR KS JHAVERI for Respondent No. 1

MR BY MANKAD, ADDL. PUBLIC PROSECUTOR for Rest No. 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 28/09/98

ORAL JUDGEMENT

Prosecution Inspector of Surat Municipal Corporation has preferred this appeal against the order of acquittal recorded by Judicial Magistrate First Class, Surat on 9.2.1990 in Criminal Case No. 3511 of 1987 wherein the accused were tried for an offence punishable under section 398 of the Bombay Provincial Municipal Corporations Act, 1949, Rule 13 of Octroi Rules and Orders No. 4, 5 and 7 (1) of the Standing Order.

2. Respondent No.2 (hereinafter referred to as the accused No.2) imported a used Ambassador car within the

limits of Surat Municipal Corporation. The accused were required to pay octroi on the value of the motor vehicle. The accused forwarded a cheque of Rs.295/- on the basis of the value of the vehicle at Rs.11,000/-, considering the fact that the vehicle was purchased in 1980 on payment of Rs.55,000/-. The accused got the vehicle transferred in his name which was a second hand vehicle, and the complainant insisted that octroi should be paid considering the price of the vehicle at Rs.30,000/-. The complainant has not indicated anything so as to come to the conclusion that the price of the said second hand car should be fixed at Rs.30,000/-, though he has admitted before the Court that the purchase price was Rs.55,000/- and atleast 10% should be deducted per year by way of depreciation. The trial Court held that considering the original price and depreciation at 10% per year, the value of the vehicle would be Rs.11,000/on which the accused has shown his willingness to pay octroi, and cheque was also forwarded. Considering these aspects, the trial Court came to the conclusion that the accused have not committed any offence.

3. Even before this Court, nothing is pointed out as to how the order passed by the Court is perverse or that the view taken by the trial Court could not have been taken on the basis of the evidence placed on record. Having heard the learned advocates and the Additional Public Prosecutor, this Court is in agreement with the findings recorded and conclusions arrived at by the trial Court.

4. In the result, this appeal is required to be dismissed, and is hereby dismissed.

csm./ -----